



## Mobius Legal Group, PLLC

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October 24, 2011

### **VIA ELECTRONIC FILING (ECFS) AND FIRST CLASS MAIL**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Ex Parte Presentation

Connect America Fund (WC Docket No. 10-90); A National Broadband Plan for Our Future (GN Docket No. 09-51); Establishing Just and Reasonable Rates for Local Exchange Carriers (WC Docket No. 07-135); High-Cost Universal Service Support (WC Docket No. 05-337); Developing an Unified Intercarrier Compensation Regime (CC Docket No. 01-92); Federal-State Joint Board on Universal Service (CC Docket No. 96-45); Lifeline and Linkup (WC Docket No. 03-109) and Mobility Fund (WT Docket No. 10-208); In the Matter of Improving Communications Services for Native Nations (CG Docket No. 11-41); Improving Communication Services for Native Nations by Promoting Greater Utilization of Spectrum Over Tribal Lands (WT Docket No. 11-40); In the Matter of Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting (WC Docket No. 11-59); In the Matter of Petition of NTUA WIRELESS, LLC for Designation as an Eligible Telecommunications Carrier on the Navajo Nation (WC Docket No. 09-197)

Dear Ms. Dortch:

Pursuant to the Commission's *ex parte* rules (47 C.F.R. §1.1206), notice is hereby given that on Friday, October 21, 2011, a meeting was held at the FCC offices with the following individuals from the Office of Native Affairs and Policy (ONAP): Mr. Geoffrey Blackwell, Chief; Ms. Irene Flannery, Deputy Chief; Mr. Dan Rumelt, Senior Advisor for Consultation Policy; and Cynthia Bryant, Senior Legal Advisor.

Appearing on behalf of the Navajo Nation Telecommunications Regulatory Commission (NNTRC) were:

NNTRC Chairman Stephen Nez  
NNTRC Vice-Chairman Lynda Lovejoy  
NNTRC Commissioner Marlene Lynch  
NNTRC Commissioner Bobby Begaye  
NNTRC Commissioner Leland Leonard

Marlene H. Dortch, Secretary  
Federal Communications Commission  
October 24, 2011  
Page 2

NNTRC Commissioner Johnny Platero  
NNTRC Executive Director Brian Tagaban  
Greg Kelly, Esq., Navajo Nation Department of Justice  
Norbert Nez, Navajo Nation Department of Community Development  
Tomicita White, Executive Assistant to the NNTRC  
James E. Dunstan, Mobius Legal Group

The meeting represented the first time that all NNTRC Commissioners have traveled to Washington, D.C. to meet with FCC representatives on a government-to-government consultative basis in accordance with the federal trust responsibility of the FCC and the FCC's policy goals for Indian tribes and Indian Country as set forth in its June 8, 2000 Policy Statement, Docket No. FCC 00-207.<sup>1</sup> The meeting included a wide range of discussions related to the NNTRC's role in the Federal/State/Tribal jurisdiction and regulation of telecommunications services, especially as they impact the Navajo Nation and service to Navajo lands and Navajo members. There was also a long discussion of the needs of the Navajo Nation, and the need for the FCC Commissioners to visit Indian Country to better understand what the other side of the Digital Divide really looks like.

Concerning the pending dockets on Universal Service Reforms referenced above, NNTRC again noted the dire need for support to assist with deployment of broadband on the Navajo Nation, and the need for mechanisms geared directly toward increasing buildout in Indian Country. Commissioners raised their concerns that any reform not cut support for Lifeline/Linkup service for traditional telephone service, which has served a critical role in increasing telephone penetration and affordability on the Navajo Nation.

Concerning Dockets 11-40 (Improving Communication Services for Native Nations by Promoting Greater Utilization of Spectrum Over Tribal Lands) and 11-41 (Improving Communications Services for Native Nations), NNTRC Commissioners expressed concern over the slow roll out of services on the Navajo Nation, indicating that many carriers only provide service to the more urbanized portions of the Nation, while rural areas are either never built out, or only built out at the tail end of a license period, and often receive inferior service. Further, some carriers who hold licenses for frequencies that cover the Navajo Nation have not engaged NNTRC in any sort of dialog, and some ignore the Navajo Nation completely.

NNTRC further referenced NNTRC's Reply Comments in 11-40 and noted that the IDinsight map referenced therein shows a huge discrepancy of actual service availability as compared to the NTIA broadband map, providing evidence that the NTIA broadband map may significantly overstate the actual availability of mobile services on

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<sup>1</sup> Although the Navajo Nation is providing this notice pursuant to the *ex parte* rules, the Navajo Nation does not concede that the *ex parte* rules or other notice and comment rules of the FCC are necessarily applicable to government-to-government communications between the FCC and federally recognized Indian tribes.

Marlene H. Dortch, Secretary  
Federal Communications Commission  
October 24, 2011  
Page 3

the Nation. *See*

[http://idinsight.com/documents/Verification\\_Analysis\\_of\\_National\\_Broadband\\_map.pdf](http://idinsight.com/documents/Verification_Analysis_of_National_Broadband_map.pdf).

NNTRC members reiterated their support for mechanisms, such as extending the broadcast tribal priority to wireless telecommunications services, and instituting a “build or divest” policy to make sure that carriers licensed to serve the Navajo Nation actually build out facilities or forfeit the right to provide service to the Navajo people.

Concerning Docket 11-59 (Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting), NNTRC Commissioners discussed the need to be able to better regulate carriers who enter tribal lands and build facilities there, sometimes without receiving direct tribal authority. NNTRC members indicated their willingness to work with the Navajo land use department in the tower approval process. There is a strong desire to get carriers to agree to collocation agreements to maximize the assets on Navajo lands, as well as minimize the impact on sensitive land areas.

Concerning the pending ETC designation application of NTUA Wireless in Docket 09-197, NNTRC members reiterated the importance of the proceeding from NNTRC’s perspective under the *Standing Rock Reconsideration* precedent to recognize Navajo Nation sovereign interests, and establish a basis for NNTRC’s basic jurisdiction over carriers who wish to provide service on Navajo land. NNTRC members also thanked the FCC for the opportunity to actively participate in that proceeding on a government-to-government consultative basis.

Respectfully Submitted,

NAVAJO NATION TELECOMMUNICATIONS  
REGULATORY COMMISSION



James E. Dunstan

Its Attorney

Cc: Geoffrey Blackwell  
Irene Flannery  
Dan Rumelt  
Cynthia Bryant